

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,	:	CASE NO. 3:21-CR-061-TMR-1
	:	
Plaintiff,	:	
vs.	:	CHANGE OF PLEA
	:	
WILLIAM SIDNEY HITCHINGS, V,	:	MONDAY, JULY 11, 2022
	:	1:30 P.M.
Defendant.	:	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE THOMAS M. ROSE,
UNITED STATES DISTRICT JUDGE, PRESIDING

APPEARANCES:

For the Plaintiff:

NICHOLAS DINGELDEIN, ESQ.
U.S. Attorney's Office
200 W. Second Street
Suite 600
Dayton, OH 45402

For the Defendant:

JAMES P. FLEISHER, ESQ.
Bieser, Greer & Landis
6 North Main Street
400 National City Center
Dayton, OH 45402

Also Present: William Hitchings, Defendant

Courtroom Deputy: Elizabeth Penski

Stenographer: Mary Schweinhagen, RPR, RMR, RDR, CRR
United States District Court
200 West Second Street, Room 910
Dayton, Ohio 45402

Proceedings reported by mechanical stenography,
transcript produced by computer.

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1 P-R-O-C-E-E-D-I-N-G-S

1 :41 P.M.

2 THE COURT: We're before the Court this afternoon in
3 the matter of the United States of America versus William
4 Sidney Hitchings, V, Case Number 3-21-cr-61. And we're here
5 for the purposes of sentencing -- I'm sorry -- we're here for
6 the purposes of considering a plea from Mr. Hitchings to Count
7 3 of a superseding indictment which charges him with receipt
8 of child pornography, a violation of 18, United States Code,
9 18, U.S.C., 2252(a)(2) and (b)(1).

10 Would counsel enter their appearance for the record.

11 MR. DINGELDEIN: Nick Dingeldein for the United
12 States standing in for AUSA Christina Mahy.

13 MR. FLEISHER: Good afternoon, Your Honor. Jim
14 Fleisher here on behalf of the defendant, Mr. Hitchings.

15 THE COURT: As I indicated, we are here for the
16 purposes to consider Mr. Hitchings's plea.

17 Mr. Dingeldein, the Court has correctly described the
18 charge to which Mr. Hitchings will be pleading?

19 MR. DINGELDEIN: That's correct, Your Honor.

20 THE COURT: And, Mr. Fleisher, Mr. Hitchings does
21 understand the charge and is ready to go forward?

22 MR. FLEISHER: Yes, Your Honor, he is.

23 THE COURT: How about that, Mr. Hitchings?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Mr. Hitchings, in order for me to

1 consider a plea, I do need to ask you a number of questions.
2 I need to ask you those questions while you are under oath.
3 Now, the oath is simply the same oath I give to any witness or
4 defendant in this court, and it assures the Court that your
5 answers to my inquiries are truthful and complete.

6 I do need to also tell you that once you are placed under
7 oath you could be prosecuted for perjury or false swearing if
8 any of your responses were not truthful. Do you understand?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Understanding that, do you still wish to
11 go forward with your plea?

12 THE DEFENDANT: I do.

13 THE COURT: All right. What I am going to ask you
14 to do, Mr. Hitchings, is move that microphone a little closer
15 to you, speak up clearly so I can hear all your responses.

16 Would you please raise your right hand to the best of
17 your ability.

18 (Defendant sworn.)

19 THE COURT: Why don't we start, if we could,
20 Mr. Hitchings, can you share with the record your full name?

21 THE DEFENDANT: William Sidney Hitchings, V.

22 THE COURT: And, Mr. Hitchings, how old are you?

23 THE DEFENDANT: I'm 36.

24 THE COURT: Can you tell me the year you were born?

25 THE DEFENDANT: 1986.

1 THE COURT: Let's talk briefly about your education.

2 How far did you go in school?

3 THE DEFENDANT: High school.

4 THE COURT: And where'd you graduate from high
5 school?

6 THE DEFENDANT: Springfield High School in
7 Montgomery County, Pennsylvania.

8 THE COURT: All right. And after high school, did
9 you pursue any other educational endeavors, vocational,
10 technical, college, anything like that?

11 THE DEFENDANT: Technical, vocational
12 certifications.

13 THE COURT: Well, let me ask you this: Do you have
14 any difficulty whatsoever in reading, writing, or
15 understanding the English language?

16 THE DEFENDANT: No, sir.

17 THE COURT: Have you been able to understand
18 everything that you and Mr. Fleisher have talked about with
19 regard to your case, the charge against you, the facts that
20 are being alleged, the processes and the procedures that
21 you'll be going through?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Now, during those discussions -- and it
24 would be normal -- if you had questions or concerns about
25 anything, if you asked questions, expressed your concerns to

1 Mr. Fleisher, was he able to answer your questions and address
2 your concerns?

3 THE DEFENDANT: He was.

4 THE COURT: All right. Are you comfortable, then,
5 that you fully understand everything that you and Mr. Fleisher
6 have discussed about this case up to this point in time?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Now, part of those discussions included
9 a review of certain documents. The one document that I'll
10 refer to first is the superseding indictment. Now, that's the
11 charging document. And within that charging document, there
12 were a number of counts, but we're specifically focusing on
13 Count 3 of the superseding indictment.

14 Did you, with his assistance, carefully read over that
15 superseding indictment, and specifically Count 3?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you believe after that review and
18 reading over that count within that charging document that you
19 fully understand the charge to which you are pleading here
20 today?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: In addition to the charging document,
23 Mr. Fleisher also reviewed with you another document. That
24 other document is entitled "Attachment A," and that's a
25 document that would be attached to the plea agreement upon

1 which you are basing your plea and lays out or states the
2 facts that are being alleged by the government underlying the
3 charge in the charging document. And that attachment is
4 just -- it's basically two pages, of course, with page 3 the
5 signature lines.

6 Did you, with Mr. Fleisher's assistance, carefully read
7 over and review Attachment A, the statement of facts?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you believe after reading over that
10 statement of facts, Attachment A, you fully understand all the
11 facts that are being alleged against you underlying the charge
12 to which you are pleading?

13 THE DEFENDANT: I do.

14 THE COURT: If you had any questions about those
15 facts, any concerns about those facts, were you able to ask
16 your questions, express your concerns, and was Mr. Fleisher
17 able to answer those questions and address those concerns?

18 THE DEFENDANT: Yes, he was, and I am.

19 THE COURT: Excuse me?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. Are those the facts, then -- are
22 you comfortable, then, that you fully understand the facts?

23 THE DEFENDANT: I do.

24 THE COURT: And those are the facts to which you
25 wish to enter a plea of guilty to?

1 THE DEFENDANT: They are.

2 THE COURT: What I want to do is, as we do with all
3 pleas, I am going to have the Assistant U.S. Attorney read on
4 to the record that factual statement contained within
5 Attachment A. If you have a copy of that attachment, you may
6 follow along. Listen carefully as he reads. Then once he's
7 done reading, I am simply going to ask you: Did you
8 understand what he read; do you have any questions about what
9 he read; are those the facts to which you wish to enter a plea
10 of guilty to; and then my final question will be, are you
11 entering a plea of guilty to those facts because they are
12 true.

13 Do you understand how we're going to proceed?

14 THE DEFENDANT: I do.

15 THE COURT: Mr. Dingeldein.

16 MR. DINGELDEIN: Your Honor, Attachment A to the
17 plea agreement reads as follows:

18 Statement of facts. The United States and defendant
19 William Sidney Hitchings, v, stipulate and agree that if this
20 case proceeded to trial the United States would prove the
21 facts set forth below beyond a reasonable doubt. They further
22 stipulate and agree that these are not all of the facts that
23 the United States would prove if this case had proceeded to
24 trial.

25 On or about December 14, 2020, in the Southern District

1 of Ohio, William Sidney Hitchings, V -- Hitchings -- knowingly
2 received any visual depiction using any means or facility of
3 interstate or foreign commerce that had been mailed, shipped,
4 transported in or affecting interstate or foreign commerce by
5 any means, including by computer, and the production of such
6 visual depiction involved the use of a minor engaging in
7 sexually explicit conduct and the visual depiction was of such
8 conduct.

9 On February 9, 2021, a search warrant authorized by the
10 United States District Court for the Southern District of Ohio
11 was executed at Hitchings's residence. Law enforcement
12 recovered a loaded Ruger P89DC 9-millimeter handgun loaded
13 with a magazine containing approximately 15 rounds of
14 9-millimeter ammunition in the basement of the residence.
15 Hitchings had been the user of this firearm since
16 approximately 2010. Also recovered from the residence during
17 the search warrant were two small quantities of
18 methamphetamine and various drug paraphernalia.

19 At the time of the execution of the search warrant,
20 February 9, 2021, Hitchings was an unlawful user of a
21 controlled substance, to wit, methamphetamine, which he used
22 multiple times a day for approximately the past six years; and
23 marijuana, which he used on a daily basis for years.
24 Hitchings possessed the Ruger P89DC 9-millimeter handgun while
25 using and under the influence of methamphetamine and

1 marijuana.

2 Hitchings admitted to law enforcement officers that he
3 had been viewing child pornography since childhood. He
4 primarily traded child pornography files with others via the
5 Telegram, Kik, and Omegle messenger applications, three
6 Internet-Based messenger applications available on smart-
7 phones, tablets, and/or computers. He received many of the
8 files from others via links to their Dropbox or Mega cloud
9 storage accounts, two Internet-based cloud accounts.

10 Hitchings had been given at least one other individual --
11 sorry. Scratch that, Your Honor. Hitchings had given at
12 least one other individual a hard drive containing numerous
13 child pornography files. Hitchings estimated that he
14 currently had hundreds of thousands of child pornography files
15 in his current collection.

16 Hitchings utilized numerous electronic devices to view,
17 trade, and store his child pornography files, including but
18 not limited to two Lenovo Thinkpad computers, an HP Pavilion
19 21 Touchsmart All-in-One computer, a Motorola MotoZ3 cellular
20 telephone, and a number of external hard drives, portable hard
21 drives, thumb drives, and SD cards. Hitchings also maintained
22 child pornography files in his Google Drive and Google Photos
23 accounts associated with the email address
24 w.hitchings@gmail.com and his Verizon Cloud account associated
25 with the telephone number 937-554-7700.

1 In total, Hitchings possessed, received, and/or
2 distributed more than 139,000 child pornography files across
3 the various devices and accounts. By way of example, four of
4 the files are described as follows:

5 Number one, "VID-20160720-WA0007.3gp." The file is a
6 video -- is a video with two screens, both of which depict
7 what appears to be two nude prepubescent male children, four
8 male children in total. In both screens, one of the male
9 children is performing fellatio on the other male child. In
10 one of the screens, one of the male children appears to lick
11 the anus of the other male child. The video is approximately
12 one minute in duration. Hitchings received this file on or
13 around December 14, 2020, onto his Lenovo ThinkPad laptop
14 after downloading it from a Mega cloud storage account.

15 Number 2, "(pedo boy) Toddler.avi." The file is a video
16 that depicts what appears to be a white toddler-aged male
17 child lying on the bed with a pillow over his face. What
18 appears to be an adult white male removed the toddler's
19 diaper. The adult male then fondles the toddler's penis,
20 digitally penetrates the toddler's anus, and had anal sexual
21 intercourse with the child. The video is approximately one
22 minute and 59 seconds in duration. The video was recovered
23 from a Western Digital SATA drive that was contained in the
24 eight-bay external hard drive enclosure that was attached to
25 Hitchings's Lenovo Thinkpad laptop.

1 Number 3, "Baby Boy Fucked by 17 yo Brother.mpg." The
2 file is a video that depicts what appears to be a nude white
3 male and a white toddler-aged male child who is wearing a
4 shirt but is nude from the waist down. The white male puts
5 what appears to be a lubricant on the toddler's anus and
6 digitally penetrates the child's anus. The white male then
7 puts the lubricant on his penis and has anal sexual
8 intercourse with the child. The video is approximately 8
9 minutes and 41 seconds in duration. The video was recovered
10 from the Motorola cellular telephone.

11 Number 4, "Felixxx_134931EdF_koz.jpg." The file is an
12 image that depicts what appears to be a nude toddler-aged male
13 child. The child's legs are straddled, exposing his nude
14 genitals and anus to the camera. It appears that the child's
15 legs are bound to his arms with black tape. What appears to
16 be an adult white male, whose face is not captured in the
17 image, is pointing his penis towards, or possibly touching his
18 penis to, the child's leg and penis. The file was saved in
19 Hitchings's Google Photos account associated with the email
20 address w.hitchings@gmail.com as well as the Western Digital
21 SATA drive that was contained in the eight-bay external hard
22 drive enclosure that was attached to Hitchings's Lenovo
23 Thinkpad laptop and another silver USB device.

24 All of the child pornography files were viewed,
25 possessed, received, and distributed while Hitchings was

1 located in the Southern District of Ohio. Accessing Kik,
2 Telegram, and Omegle messenger applications and Google Drive,
3 Google Photos, Mega, Dropbox, and Verizon cloud accounts
4 required the use of the Internet and thereby affects
5 interstate or foreign commerce.

6 For the information of the Court, Ruger P89DC
7 9-millimeter handguns are not manufactured in the state of
8 Ohio. Hitchings's possession of this firearm in the Southern
9 District of Ohio therefore required that the firearm traveled
10 in interstate commerce.

11 Your Honor, the statement of facts or the attachment is
12 signed by Mr. Hitchings and Mr. Fleisher acknowledging that
13 they have read and reviewed the statement.

14 THE COURT: All right. Thank you, counsel.

15 Mr. Hitchings, did you understand what counsel has read
16 onto the record from Attachment A.

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you have any questions about anything
19 that was read?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Are those the facts contained in the
22 attachment to which you wish to enter a plea of guilty to?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And is that because those facts are
25 true?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: What I'm going to ask then, if it's not
3 already been accomplished -- it sounds like it may have been,
4 but if it has not already been accomplished -- I would ask
5 that Mr. Hitchings, as well as Mr. Fleisher, sign the
6 statement of facts. And then I would ask that Mr. Hitchings,
7 Mr. Fleisher, and Mr. Dingeldein or Ms. Mahy, if that was the
8 case, initial the bottom of each of the pages. Has that been
9 accomplished?

10 MR. DINGELDEIN: That's been accomplished, Your
11 Honor.

12 THE COURT: Mr. Hitchings, it's not only important
13 that you fully understand the charge to which you are pleading
14 and the facts that are being alleged, it's also important that
15 you understand what can happen if you enter a plea of guilty
16 to this charge and the Court makes a finding of guilty.

17 So what we're going to do is talk a little bit -- well,
18 we're going to talk about, one, the maximum penalties that the
19 Court could impose upon an individual for a violation of this
20 section of law. Then we're going to talk how the Court -- or
21 what the Court considers once it has those parameters, how the
22 Court considers what is an appropriate sentence within those
23 parameters, what is a sentence that meets the goals of
24 sentencing but is not more than is necessary.

25 And then, finally, we're going to talk about an area that

1 is specific to your case, your plea, and that is that you are
2 entering this plea pursuant to a plea agreement, and within
3 that plea agreement, there is a provision under 11(c)(1)(C) of
4 the Federal Rules of Criminal Procedure which allows a
5 defendant and the government to agree upon and propose to the
6 Court what they believe an appropriate disposition would be.
7 So we're going to talk about how that provision works, how it
8 will be working in your case, and what are the terms of your
9 provision.

10 Do you understand what we're going to talk about?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: Well, let's talk about those maximum
13 penalties. And because I'm going to review maximum penalties
14 with you, that doesn't mean I am going to impose maximum
15 penalties, but what it means is those are the parameters,
16 those are the outside boundaries. And within those boundaries
17 is the area in which the Court will exercise its discretion in
18 coming up with a disposition that does meet the goals of
19 sentencing but is not more than necessary.

20 You understand that for a violation of this section of
21 law, for a violation of the charge in Count 3, the Court may
22 impose a term of imprisonment, but not less than five years,
23 but not more than 20 years. So five years is a mandatory
24 minimum that the Court must impose, and the maximum is 20
25 years. Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And you understand that after any term
3 of incarceration, whatever that may be, there is a term of
4 supervision. And for a violation of this section of law, the
5 supervision is a term, again, of at least five years.

6 THE DEFENDANT: Yes, Your Honor.

9 THE DEFENDANT: I do.

10 THE COURT: The Court also has the ability to impose
11 a fine. I don't have to impose a fine but I can. If I do
12 impose a fine, I could fine an individual up to \$250,000. Do
13 you understand?

14 THE DEFENDANT: Yes, Your Honor.

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: The Court also has -- there is also a
23 special assessment -- there is also an assessment pursuant to
24 18, U.S.C., 2259(a) not to exceed \$35,000. Do you understand?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: There is also an assessment pursuant to
2 18, U.S.C., 3014 of \$5,000 on any nonindigent person or
3 entity. Do you understand?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And, finally, there is a special
6 assessment under 18, U.S.C., 3013 of \$100 per each count of
7 conviction. You are pleading to one count; so, obviously,
8 that, the mandatory special assessment pursuant to that
9 section would be \$100, and you understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Now, the Court also has the ability to
12 order forfeiture of any materials, properties, monies that
13 might be involved in the offense, and do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you have any questions about any of
16 those maximums, mandatory minimums, or sanctions?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: All right. So those are the parameters
19 then, Mr. Hitchings. We've got a mandatory minimum of five
20 years, and I have a maximum of 20 years; so within those two
21 parameters, the Court must determine what is an appropriate
22 disposition, what's a disposition that meets the goals of
23 sentencing but is not more than is necessary.

24 Well, in order to do that, I consider a number of
25 different factors. One is I consider the nature and

1 circumstance of the offense. That simply means I try to find
2 out exactly what happened, get a clear picture. I also look
3 to see who that individual is, his history, his
4 characteristics, his background. Because what happened and
5 who the individual is is what makes up a clear picture for the
6 Court.

7 Once I have that clear picture, then I do -- what I do is
8 I look to other individuals, other situations that are
9 somewhat similar, maybe a violation of this section of law
10 with an individual who has a similar history, characteristics,
11 and background. All cases are different. All cases are
12 distinguishable. However, there is a commonality with many
13 cases, and it is important, to the extent possible, the Court
14 keeps its sentencing as consistent as possible.

15 The Court also then, once I have -- once I have looked at
16 that, then the Court will look to see what is a sentence then
17 within those parameters of sentencing, what's a sentencing
18 that is sufficient with regard to this individual, with regard
19 to this factual situation, this violation, what is necessary
20 to reflect the seriousness of this offense and promote respect
21 for the law and provide a just punishment?

22 I start out with a rebuttable presumption, which I am
23 going to look to you and Mr. Fleisher to talk to me about as
24 we go towards disposition. But I start out with a presumption
25 that an individual who violates the law, one, doesn't

1 appreciate what he -- doesn't appreciate the seriousness of
2 what he or she has done and they definitely don't respect the
3 law. I need to know where that individual is as we approach
4 disposition: Has that individual gained an appreciation for
5 the seriousness of what has occurred? Has that individual
6 gained respect for the law? A tough way to get there, but has
7 he or she?

8 And that's important because in imposing a just sentence,
9 Mr. Hitchings, and determining what do I need to do, what do I
10 need to impose upon this individual to deter him or her from
11 further criminal conduct? What do I need to impose upon this
12 individual to protect the public from him or her? So you can
13 see an individual who's gained some appreciation for the
14 seriousness of what he or she has done, has gained respect for
15 the law may be of less of a concern to me when I have to
16 determine what exactly am I going to have to impose upon this
17 individual to deter him or her, to protect the public from him
18 or her. Do you understand?

19 THE DEFENDANT: I do, Your Honor.

20 THE COURT: Then I look at another factor, a factor
21 under the United States Sentencing Guidelines, advisory
22 guideline calculation. In every case I look at this factor.
23 There is always a score, raw score for an offense. That score
24 can be raised or lowered. But it results in what we call an
25 offense level. And then I look at an individual, the

1 defendant, I look and see what his or her criminal history
2 was, or lack of criminal history. And I take that criminal
3 history, and it becomes a criminal history category. I take
4 those two numbers and I go to a chart. It simply comes up
5 with so many months to so many months.

6 Now, of course like we've talked about, you are dealing
7 with a mandatory minimum here. But the advisory guideline
8 range is a factor that the Court does consider.

9 Let me give you an example. Let's say this was a theft
10 offense. There is a score for that offense. But due to the
11 amount of money or property, whatever was taken, that score
12 could raise. It's not good to raise a score, but if that
13 individual does demonstrate an acceptance of responsibility
14 for what he or she has done, has timely notified the
15 authorities of his or her intention to plead, that can lower
16 the score. But it results in what I said, an offense level.

17 Then I look at the individual's criminal history, lack of
18 criminal history. That creates that criminal history
19 category. I simply go to the chart, and that comes up with so
20 many months to so many months within the parameters that I've
21 just described.

22 Mr. Fleisher, have you had an opportunity to talk to
23 Mr. Hitchings about the guideline calculation, any estimates
24 that you may have made, and the resulting advisory range?

25 MR. FLEISHER: Yes, Your Honor, I have.

1 THE COURT: Could you just share with the record a
2 summary of that. And if you would, include any of those
3 estimates that you may have made. I ask you that question,
4 Mr. Fleisher, understanding, one, there is this mandatory
5 minimum, but I also ask it understanding that there is an
6 11(c)(1)(C) here too.

7 MR. FLEISHER: Certainly, Your Honor. Yes, Your
8 Honor. I have had an opportunity to discuss with
9 Mr. Hitchings the applicability of the guidelines in this
10 case, the fact that those guidelines are advisory in nature,
11 but also that they are one of the factors that the Court must
12 consider in its analysis under 18, United States Code, Section
13 3553(a).

14 In discussing the guidelines with him, Your Honor, all of
15 the offense level calculations derive from Section 2G2.2 of
16 the guidelines. I had advised him that for this particular
17 offense, which is receipt of child pornography, the guidelines
18 assign a base offense level of 22. There is a 2-point
19 enhancement under Section 2G2.2 for any photographs where
20 there was an individual under the age of 12. There is also a
21 2-point enhancement for distribution in this case. There
22 was -- apparently, Mr. Hitchings had passed along a few
23 photographs to an individual. There is a 4-point enhancement
24 for the photographs or videos containing sadistic or
25 masochistic conduct. There is also a 2-point enhancement for

1 use of a computer in association with this offense, another
2 5-point enhancement because there were more than 600 images
3 that were possessed.

4 And, finally, Your Honor, I discussed with him, as the
5 Court has already discussed, how his acceptance of
6 responsibility and timely notification of his intent to plead
7 in this case could result in a 3-point reduction from that
8 offense level. Assuming that 3-point reduction is granted by
9 the Court, Mr. Hitchings's adjusted offense level is 34.

10 His criminal history category is I, and that would result
11 in an advisory sentencing guidelines range of 151 to 188
12 months, which converts to 12 years, 7 months to 15 years and 8
13 months.

14 THE COURT: Mr. Fleisher, did Mr. Hitchings appear
15 to understand your explanation of the guidelines and how they
16 work?

17 MR. FLEISHER: Yes, sir, he did.

18 THE COURT: And if he had any questions about your
19 explanation, you believe you were able to answer and address
20 them?

21 MR. FLEISHER: Yes, Your Honor.

22 THE COURT: And he understands that -- do you
23 believe he understands that the estimates that you have made
24 based upon your experience are indeed only that, estimates
25 that cannot be guaranteed?

1 MR. FLEISHER: Yes, Your Honor, he understands.

2 THE COURT: How about that, Mr. Hitchings, did you
3 understand Mr. Fleisher's explanation of the guideline
4 calculation, how it works, and how it may affect your
5 disposition?

6 THE DEFENDANT: Yes, Your Honor.

When you do something that frequent, you acquire a degree of expertise, and Mr. Fleisher is definitely an expert in these calculations. However, as expert as he may be, you understand that those estimates that he made are based upon his analysis and his -- they are his estimates, and that's all they are; they are just estimates at this point in time. Do you understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: These are not guarantees. That's no
20 deficiency on the part of Mr. Fleisher. It's just the fact
21 that I am going to make the final decision based upon
22 everything that is presented to me. Do you understand?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you have any questions about that?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: There are several other factors along
2 with those factors that we have discussed that the Court
3 considers. The Court also looks to see whether an individual
4 is in need of any type of educational or vocational training.
5 Is there any medical concerns of this individual? Is there
6 any need for a correctional treatment of some type?

7 Because the Court also tries to provide -- not only
8 impose the sanction but also tries to provide whatever would
9 be appropriate, whatever would be of assistance to that
10 individual in dealing with any issues that he or she may have,
11 moving that individual or preparing that individual for when
12 the sanction is over that they can move more easily back into
13 the community, receiving whatever type of treatment, receiving
14 whatever type of training that can be provided to them. And
15 you understand that?

16 THE DEFENDANT: I do, Your Honor.

21 THE DEFENDANT: I understand, yes, Your Honor.

22 THE COURT: All right. Well, then, let's talk about
23 the last area of disposition, and that's your 11(c)(1)(C)
24 provision which is contained within your plea agreement.

25 Give me just a second.

1 Your 11(c)(1)(C) provision -- and we'll be going over
2 your plea agreement here in just a few moments -- is contained
3 in Provision 6 of your plea agreement. Now, an 11(c)(1)(C)
4 provision under the United States Sentencing Guidelines -- or
5 under the Federal Rules of Criminal Procedure allows you and
6 the government to agree upon what you and the government
7 believe is an appropriate disposition and then propose that to
8 the Court. The Court will be considering all the factors of
9 sentencing and determining whether or not the Court agrees
10 that the 11(c)(1)(C) provision, the agreed-upon sentence, is a
11 sentence that does meet those goals but is not more than
12 necessary.

13 Now, that sentence can either be a specific sentence or
14 it can be a range within which the Court would determine what
15 an appropriate sentence is. If the Court accepts the plea
16 agreement and the 11(c)(1)(C) provision, the Court would
17 sentence in accordance with that.

18 Now, if for some reason after considering the factors of
19 sentencing the Court cannot accept your 11(c)(1)(C), I would
20 afford you the opportunity, Mr. Hitchings, to withdraw your
21 plea. Is that your understanding of how the 11(c)(1)(C)
22 works?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right. Your 11(c)(1)(C) indicates
25 that you and the government have agreed that an appropriate

1 disposition in this case is a term of incarceration not to --
2 not to exceed 136 months. So what that means to me is you and
3 the government are proposing to the Court that a term of
4 imprisonment of within the range of, since you are now
5 incarcerated, a time served up to 136 months is an appropriate
6 disposition.

7 Now, however, you do understand that there is a five-year
8 mandatory minimum here?

9 THE DEFENDANT: I do.

10 THE COURT: So that's 60 months. So it is not time
11 served up to 136 months, it's 60 months up to 136 months. Do
12 you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you have any questions about that?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: I correctly interpret that, don't I,
17 Mr. Dingeldein?

18 MR. DINGELDEIN: Yes, Your Honor.

19 THE COURT: Mr. Fleisher?

20 MR. FLEISHER: Yes, Your Honor.

21 THE COURT: After that term of incarceration, within
22 that range of 60 to 136 months, there is a term of supervised
23 release. And, of course, that will be determined solely by
24 the Court. The conditions, of course within the parameters of
25 the statute, that five-year mandatory, but the Court will

1 consider what conditions, discretionary or mandatory, must be
2 imposed.

3 The Court also will impose as an assessment pursuant to
4 18, U.S.C., 2259(a) any fine that is determined by the Court
5 to be appropriate.

6 There is also a provision in your 11(c)(1)(C) which
7 indicates that restitution as determined by the Court pursuant
8 to the agreement contained in paragraphs 2 through 7 of this
9 plea agreement, you specifically agree that although you are
10 not pleading guilty to Counts 1, 4, and 5 of the superseding
11 indictment, as part of the agreement you are consenting and
12 agreeing that you are fully liable for restitution to the
13 victims of these crimes as described in Counts 1, 4, and 5 as
14 if you had pled guilty of those offenses, and that you will
15 pay restitution to any victims of those crimes as laid out in
16 paragraph 7 of the plea agreement. And that in paragraph 7 it
17 is laid out specifically what that would be. Do you
18 understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Do you have any questions about that?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: You also are agreeing to abandon the
23 handgun, the Ruger P89DC 9-millimeter handgun, and you will
24 sign an abandonment form and allow the authorities to retain
25 possession of that. Is that your understanding?

1 THE DEFENDANT: Yes, Your Honor.

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you have any questions -- now, this
8 11(c)(1)(C) is a little more complicated than many
9 11(c)(1)(C)s. Do you understand it?

10 THE DEFENDANT: I do, Your Honor.

11 THE COURT: And you have reviewed it, and you have
12 discussed it with Mr. Fleisher, and if you had questions about
13 what exactly those provisions mean, you fully understand the
14 ramifications of this plea agreement and the terms of your
15 11(c)(1)(C); is that correct?

16 THE DEFENDANT: Yes, Your Honor.

21 MR. DINGELDEIN: I'm sorry if I missed it, Your
22 Honor, but the forfeiture of the electronic devices?

23 THE COURT: Well, that's not part of the
24 11(c)(1)(C), right?

25 MR. DINGELDEIN: No, no.

1 THE COURT: We will review that when we go through
2 the plea agreement.

3 MR. DINGELDEIN: Then nothing further. My
4 apologies.

5 THE COURT: Mr. Fleisher, anything?

6 MR. FLEISHER: No, sir.

9 You understand you don't have to enter this plea of
10 guilty. You can continue to plead not guilty and go to trial.
11 We'd place the burden on the government to prove your guilt
12 beyond a reasonable doubt, each and every element of the
13 charge or charges. It's the highest burden in the law. It's
14 their burden. You don't have a burden. You don't have to
15 prove, say, or do anything. You can remain at counsel table,
16 do nothing, say nothing. That cannot be held against you.

17 Of course, Mr. Fleisher could fully participate in the
18 trial. He could view the government's evidence, cross-examine
19 all their witnesses, call witnesses on your behalf if he felt
20 that appropriate. If those people were hesitant to come in
21 here, I would compel them to at least attend. He would argue
22 your case to the jury. And if that jury, after exercising all
23 those rights, after exercising that process, returned a
24 verdict or verdicts against you, guilty verdicts, you'd have a
25 right to appeal that to the Court of Appeals.

1 Now, that process and all those rights are yours. No one
2 else's. No one can take them from you. The government can't;
3 I can't. No one can. But you can give them up by entering
4 this plea to Count 3 of this superseding indictment knowingly,
5 voluntarily, and intelligently. Do you understand that?

6 THE DEFENDANT: I do, Your Honor.

7 THE COURT: Understanding that, do you still wish to
8 go forward with your plea?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Now, you are doing this -- and we made
11 reference to it several times -- you are doing this pursuant
12 to a plea agreement and, of course, the attached statement of
13 facts that are attached -- will be attached to the plea
14 agreement.

15 Your plea agreement, a copy of which I have here in front
16 of me, is nine pages long. It has 17 provisions. Have you,
17 with the assistance of Mr. Fleisher carefully read over,
18 reviewing each of those provisions in that plea agreement?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: In your review, if you had any
21 questions, any concerns about any one of those provisions or
22 the plea agreement itself, have you been able to ask your
23 questions, express your concerns, and has he been able to
24 answer them and address your concerns?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: At this point in time, do you believe,
2 then, that you fully understand the plea agreement?

3 THE DEFENDANT: I do, Your Honor.

4 THE COURT: All right. Now, we're not going to read
5 the entire plea agreement. I am just going to -- I need to
6 point out a few provisions. It may be a little redundant, but
7 I just want to make sure of your understanding.

8 Provision 1 talks about the charge to which you are
9 pleading. We have talked about the charge to which you are
10 pleading at length. You have indicated that you understand it
11 and your questions have been asked and answered; is that
12 correct?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: The penalties in Provision 2 in your
15 plea agreement are the penalties that we have discussed here
16 upon the record. There are a number of different penalties.
17 There is a mandatory minimum. There is a mandatory minimum in
18 both the term of incarceration and supervision. There is
19 mandatory restitution. There is a forfeiture provision that
20 the Court can order forfeiture. Do you understand all those
21 things?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: You have indicated that you do, and you
24 have indicated that your questions have been asked and
25 answered; is that correct?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Provision 6 of your plea agreement then
3 talks about your 11(c)(1)(C). We have just had a long
4 discussion about your 11(c)(1)(C), a little more extensive
5 than normal 11(c)(1)(C)s, but you do indicate that you fully
6 understand that in that 11(c)(1)(C) what you've agreed upon
7 and the range in which you and the government have agreed
8 upon, and you understand how the 11(c)(1)(C) works and that if
9 the Court does refuse to accept your 11(c)(1)(C), you will
10 have the opportunity to withdraw your plea; is that correct?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Paragraph 7, or the Provision 7 does
13 talk about restitution. You have indicated you fully
14 understand your agreement with regard to the restitution that
15 was referred to in your 11(c)(1)(C). And there is also as
16 part of paragraph 7 an agreement by you, by entering a plea
17 pursuant to this plea agreement, that you are forfeiting a
18 number of pieces of personal property. I believe there are 36
19 pieces of personal property, mostly computer -- computers,
20 computer components, drives, thumb drives, and you have
21 reviewed all those things?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And you understand what you are agreeing
24 to forfeit?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: In paragraph 9 of your plea agreement,
2 Mr. Hitchings, you and the government have agreed that this
3 plea constitutes a conditional plea. And what that means is
4 that you are reserving the right to seek appellate review of
5 the Court's previous order with regard to a motion to suppress
6 that the Court ruled upon earlier in this case. Do you
7 understand that?

8 THE DEFENDANT: Yes, Your Honor.

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Now, with the exception of that
13 condition, under paragraph 10 of your plea agreement you are,
14 in exchange for certain concessions made by the government in
15 the plea agreement, you are waiving your right to appeal the
16 conviction and sentence imposed except for that conditional
17 plea agreement. So if -- depending on how the Court of
18 Appeals would rule, if this is appealed with regard to that,
19 that would -- if the Court -- let's see. If the Court of
20 Appeals denies the appeal, then you have waived your right to
21 appeal the conviction or sentence imposed by the Court. Do
22 you understand that?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Mr. Fleisher, is that adequate?

25 MR. FLEISHER: Yes, Your Honor, I think it is.

1 THE COURT: All right. The only other provision I
2 want to bring to your attention is that you do understand that
3 by entering a plea pursuant to this plea agreement you are
4 also agreeing or you also are indicating that you understand
5 that you will be under the Sex Offender Registration and
6 Notification Act, and as a result, you will be required to
7 abide by any and all reporting requirements or regulations
8 that are imposed by that act. Is that -- do you understand
9 that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you have any questions about that?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Counsel, is there anything else I should
14 clarify with regard to the plea agreement?

15 MR. DINGELDEIN: Nothing from the government, Your
16 Honor.

17 MR. FLEISHER: No, Your Honor.

18 THE COURT: Now, Mr. Hitchings, I outlined several
19 provisions in your plea agreement. That does not mean that
20 those provisions really are any more or less important than
21 all the provisions. It's important that you fully understand
22 every provision in your plea agreement. And you are
23 indicating you do; is that correct?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And that is -- and fully understanding

1 the plea agreement, you are requesting the Court to accept the
2 plea agreement along with your plea to Count 3 of the
3 superseding indictment; is that correct?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Mr. Fleisher, you have gone over this
6 plea agreement, reviewed it with Mr. Hitchings, read over it
7 with him. Do you believe he fully understands it?

8 MR. FLEISHER: I do, Your Honor.

9 THE COURT: All right. And if he had questions or
10 concerns about any of the provisions -- obviously, there is a
11 number of provisions here; there is a number of different
12 areas of concern for him -- you believe that you've been able
13 to answer all his questions?

14 MR. FLEISHER: Yes, Your Honor, I do.

15 THE COURT: Do you believe the plea agreement's
16 acceptable to him?

17 MR. FLEISHER: Yes, Your Honor.

18 THE COURT: All right. The plea agreement's
19 acceptable to the government?

20 MR. FLEISHER: Yes, Your Honor.

21 THE COURT: Well, then, back to you, Mr. Hitchings.
22 You have indicated you fully understand the plea agreement and
23 all of its provisions. You have reviewed it. All your
24 questions have been asked and answered. Is the plea agreement
25 acceptable to you?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: What I'd like to do then, if it has not
3 already been accomplished, I would ask that Mr. Hitchings,
4 Mr. Fleisher, as well as Mr. Dingeldein, or Ms. Mahy if that
5 was the case, sign the plea agreement at the signature lines
6 provided, date their signatures. Then I would ask everyone to
7 initial the bottom of each of the pages.

8 MR. DINGELDEIN: That's been accomplished, Your
9 Honor.

10 THE COURT: We're almost done, Mr. Hitchings.

11 Has anyone promised you anything other than is contained
12 within this plea agreement in return for your plea?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Has anyone done or said anything that's
15 given you some impression that something's going to happen or
16 not going to happen in return for your plea that's not in the
17 plea agreement?

18 THE DEFENDANT: No, Your Honor.

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: This is something that you've thought
24 about long and hard, you have discussed with Mr. Fleisher, you
25 have weighed all your different options, and this is how

1 you've decided that you wish to proceed; is that correct?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And that decision on your part was a
4 totally voluntary decision; is that correct?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Have you had any kind of drugs, alcohol,
7 or medication within the last 24 hours?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: Clear-headed here this afternoon and
10 fully understand everything that's been said and done?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Mr. Hitchings, are you entering this
13 plea to the charge because you are, in fact, guilty as
14 charged?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Mr. Fleisher, do you consider
17 Mr. Hitchings competent to enter his plea?

18 MR. FLEISHER: I do, Your Honor.

19 THE COURT: And you believe he understands
20 everything we have discussed?

21 MR. FLEISHER: Yes, sir.

22 THE COURT: Back to you then, Mr. Hitchings, one
23 final time. Do you wish to go forward with your plea?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Do you understand the facts alleged

1 against you?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Mr. Hitchings, how do you wish to plead
4 to Count 3 of the superseding indictment which charges you
5 with receipt of child pornography, a violation of 18, United
6 States Code, 2252(a)(2) and (b)(1)?

7 THE DEFENDANT: Guilty.

8 THE COURT: Thank you.

9 Based upon my discussions with Mr. Hitchings over the
10 last 45 minutes or so, based upon his appearance and demeanor
11 here in the courtroom, the Court does make the following
12 findings:

13 The Court finds that he is in full possession of his
14 faculties and is competent to enter this plea.

15 The Court further finds that he is not under any apparent
16 influence of narcotics, hallucinogens, alcohol, or medication.

17 The Court finds that he understands the nature of this
18 charge to which he has pled and the penalties that are
19 provided by law.

20 The Court further finds that he understands all of his
21 constitutionally guaranteed processes and rights, the jury
22 process and all the rights contained within that process, and
23 that by entering this plea knowingly, voluntarily, and
24 intelligently, he is giving up that process and all of those
25 rights.

1 The Court further finds that he is aware of his plea
2 agreement and all of its provisions, and that those provisions
3 and that agreement are indeed acceptable to him.

4 The Court finds that based upon the attachment to the
5 plea agreement as shared with the record there is a factual
6 basis for his plea.

7 And the Court finds that Mr. Hitchings has pled guilty
8 voluntarily because, as he's indicated here upon the record,
9 he is, in fact, guilty as charged.

10 Therefore, the Court accepts the plea of guilty, and it
11 will be made a permanent part of the record in this case.

12 And based upon that plea that the Court has now accepted,
13 the Court does find this defendant, William Sidney Hitchings,
14 v, guilty of receipt of child pornography, a violation of 18,
15 United States Code, 2252(a)(2) and (b)(1), as charged in Count
16 3 of the superseding indictment.

17 Now, Mr. Hitchings, the Court has accepted your plea. I
18 have made a finding of guilty. And now I am going to refer
19 the matter to the probation department for what is called a
20 presentence investigation. Please cooperate with them to the
21 extent you can. That is a conversation you should --
22 conversation you should have with Mr. Fleisher.

23 They are going to conduct this investigation and issue a
24 report with recommendations to the Court. You and the
25 government will receive a copy of that. You and the

1 government will have the opportunity to respond, reply, and/or
2 object to any portion of it.

3 You and the government would also have the opportunity if
4 you desire to submit a memoranda with regard to disposition,
5 mitigation of disposition, any of the factors of sentencing.

6 If a memorandum is filed, that must be filed no later
7 than seven business days following the receipt of the final
8 report and recommendation. If a memorandum is filed and
9 opposing counsel wishes to file a response, that must be filed
10 no later than five business days following the receipt of the
11 original memoranda.

12 The Court is going to set your disposition,
13 Mr. Hitchings, for Friday, November the 18th, at 9:30.

14 Mr. Hitchings, do you have any questions about anything
15 that I have said or done here this afternoon?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Mr. Fleisher, anything?

18 MR. FLEISHER: No, Your Honor. Thank you.

19 THE COURT: Mr. Dingeldein, anything?

20 MR. DINGELDEIN: No, Your Honor.

21 THE COURT: I will see you back here then,
22 Mr. Hitchings, on November the 18th at 9:30. Please talk with
23 Mr. Fleisher about your cooperation with probation. Thank you
24 very much.

25 THE COURTROOM DEPUTY: All rise. This Court stands

1 in recess.

2 (Proceedings concluded at 2:38 p.m.)

* * * * * * *

CERTIFICATE OF REPORTER

6 I, Mary A. Schweinhagen, Federal Official Realtime
7 Court Reporter, in and for the United States District Court
8 for the Southern District of Ohio, do hereby certify that
9 pursuant to Section 753, Title 28, United States Code that the
10 foregoing is a true and correct transcript of the
11 stenographically reported proceedings held in the
12 above-entitled matter and that the transcript page format is
13 in conformance with the regulations of the Judicial Conference
14 of the United States.

16 S/Mary A. Schwoebel, Ph.D.

26th of June, 2023

18 MARY A. SCHWEINHAGEN, RDR, CRR
FEDERAL OFFICIAL COURT REPORTER